

आयकर अपीलिय अधिकरण  
मुंबई पीठ "एस एम सी" , मुंबई  
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
आअसं. 7514/मुं/2019 (नि.व.2013-14)  
ITA NO.7514/MUM/2019 (A.Y.2013-14)

M/s Interpole Technologies Pvt. Ltd.,  
7, "Gauri Shankar", 50/A,  
Piston Sagar, Chembur,  
Mumbai-400089.

PAN: **AABCI1991A**

..... अपीलार्थी /Appellant

बनाम Vs.

ITO 14(2)(1)  
Room No. 457, Aayakar Bhavan,  
M.K. Road, Mumbai-400020.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Ms. Neelam Jadhav

प्रतिवादी द्वारा/Respondent by : Sh. Sanjay J. Sethi

सुनवाई की तिथि/ Date of hearing : 22/07/2021

घोषणा की तिथि/ Date of pronouncement : 04/10/2021

आदेश/ ORDER

**PER VIKAS AWASTHY, J.M:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-22, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 21/08/2019 for the assessment year 2013-14.

2. Ms. Neelam Jadhav appearing on behalf of the assessee submitted that the assessee in appeal has assailed:

- |                                                |                |
|------------------------------------------------|----------------|
| 1. Disallowance of Card Renewal Fee            | Rs. 56,180/-   |
| 2. Disallowance of Business Promotion Expenses | Rs. 2,25,102/- |

The Id. Authorized Representative (AR) of the assessee submitted that the assessee is engaged in Information Technology business. In the books, the assessee *interalia* claimed Club Membership Fee and Card Renewal Fee. In assessment proceedings, the Assessing Officer (AO) disallowed both the aforesaid expenditure holding it to be unrelated to the business. The assessee carried the issue in appeal before the CIT(A). The CIT(A) allowed Club Membership Fee as Business Expenditure and disallowed Card Renewal Fee. The Id. AR submitted that the Card was exclusively used for business purposes. In the preceding AYs and succeeding AYs, the Card Renewal fee was allowed as business expenditure in assessments completed under section 143(1) of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'].

2.1 With regard to business promotion expenses, the Id. AR submitted that the details of expenditure incurred were submitted during assessment proceedings. Substantial payments on this account were made through Credit Card. The Credit Card statement was furnished to substantiate that payments were made for business purpose. The expenditure has been disallowed merely for the reason that the names of the clients and the place of meeting were not furnished. The assessee has been claiming business promotion expenses of similar nature in the past. In AY 2007-08, the expenditure was allowed in assessment completed under section 143(3) of the Act.

3. Per contra, Sh. Sanjay J. Sethi representing the Department vehemently supported the impugned order and prayed for dismissing appeal of the assessee. The Id. DR submitted that the assessee has failed to establish nexus between renewal of Card Membership and the business activities. With regard to disallowance of Business Promotion Expenditure, the Id. AR submitted that in absence of corroborative evidence, the AO and the CIT(A) disallowed assessee's claim.

4. Both sides heard, orders of the authorities below examined. The assessee is in appeal against disallowance of card renewal fee. A perusal of the impugned order shows that the assessee has paid annual card fee of Rs. 56,180/-. The assessee purportedly upgraded the card which provides higher reward points and better foreign exchange rate. The sole contention of the assessee is that in the preceding and succeeding AYs, similar expenditure has been allowed. However, no documentary evidence whatsoever was furnished by the assessee to show that the card is being used for business purpose. The Id. AR of the assessee has admitted that in preceding AY and succeeding AYs similar expenditure has been allowed in assessments completed under section 143(1) of the Act. Thus, there was no occasion for the AO to examine the nature of expenditure and its allowability. Therefore, the rule of consistency will not apply. Hence, the ground no.1 raised in appeal is dismissed.

5. In ground No.2 of appeal, the assessee has assailed disallowance of business promotion expenditure. The contention raised by Id. AR is that the payment for expenditure was made through Credit Card. The statements of the Credit Card were furnished to substantiate nature and expenditure, however, the authorities below failed to examine the same. Once, the assessee has

furnished the details of the expenditure, the duty was cast upon the AO to examine the veracity of the statements furnished and thereafter accept or reject the same. In the present case, it is observed that the AO and the CIT(A) has failed to examine the statements furnished by the assessee. Keeping in view the smallness of the amount involved, it would not be worthwhile to restore this issue back to the file of AO for examination. Taking into consideration entirety of facts and the details furnished, the assessee succeeds on ground no.2.

6. In the result, appeal by assessee is partly allowed.

Order pronounced in the open court on **Monday**, the **04<sup>th</sup>** day of October, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 04/10/2021

SK, PS

**प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

**ITAT, Mumbai**